

# Notice of Allowability

Application No.

10/088,451

Examiner

Vinh T Luong

Applicant(s)

KLEIN ET AL.

Art Unit

3682

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/13/2004.
2. ☒ The allowed claim(s) is/are 1-7 and 9-18.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 5/11/04.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 11052004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



Vinh T. Luong  
Primary Examiner

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 13, 2004 has been entered.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Friedrich Kueffner on November 5, 2004.

In claim 1:

(A) Line 14, before "container," insert - - separate - -; and

(B) Line 18, change "introduced" to - - received - -.

4. The following is an examiner's statement of reasons for allowance: the claims are allowed due to the limitations "wherein the switching element (18) is integrated media-tight in a separate container (13, 13', 13'', 13''') and the container (13, 13', 13'', 13''') on at least one side has a touch surface (15') for actuating the switching element (18), and the container (13, 13', 13'', 13''') is received without play into a receptacle (16) of the base shell (11) of the handle" in claim 1.

The Examiner agrees with Applicant's arguments on pages 8-11 of the Amendment filed

on September 13, 2004. Particularly, the Examiner agrees that the closest prior art Boom et al. (DE 196 17 038 A1 which corresponds to US Patent No. 6,075,294) does not teach a separate container that contains Boom's switch 35 as recited in claim 1. In fact, *Webster's New World Dictionary of the American Language* (1968) defines "container" as "a thing that contains or can contain something; box, crate, can, jar, etc." Since Boom's insulation layer 36 shown in Fig. 4 cannot contain Boom's switch 35, therefore, Boom's layer 36 does not read on the limitation "a separate container" as recited in the claim. See *Teleflex Inc. v. Ficosa North America Corp.*, 299 F.3d 1313, 1325, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002), *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001), and MPEP 2111.01.

Assuming *arguendo* that Boom's layer 36 can be interpreted as a container, Boom does not teach or suggest the functional limitation "the container (13, 13', 13'', 13''') on at least one side has a touch surface (15') *for actuating the switching element (18).*" (Emphasis added). Indeed, Boom's Fig. 4 shows that the layer 36 is enclosed by the shells 28 and 29, thus, when the operator opens or closes the vehicle door, the operator touches the shell 29, but not the layer 36 as recited in lines 1-12 of claim 1. If one disassembles Boom's handle as shown in Boom's Fig. 3, one can touch the outer surface of layer 36, however, one would render Boom's handle to be inoperative for its intended design to open and close the vehicle door. On the other hand, one cannot actuate Boom's switching element 35 by touching the layer 36 because the layer 36 is merely an insulation layer, thus, it does not close the circuit to actuate Boom's switching element 35 as required in Applicant's claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**5. Comments regarding the drawings**

The original drawings, *e.g.*, Figs. 5, 6, and 8 are objected to under 37 CFR 1.84 because the drawing symbols are improper. For example, page 7 of the specification describes that the cover part 32 is made of soft plastic or rubber-elastic material, however, Figs. 6 and 8 do not show the drawing symbols for rubber or plastic in accordance with MPEP 608.02. See examples of suitable symbols in the "Guide for the Preparation of Patent Drawings" available from the USPTO web site at [www.uspto.gov](http://www.uspto.gov). Applicant is reminded that in order to avoid an abandonment of this application, the drawings must be corrected in accordance with the instructions set forth in the paper mailed on May 11, 2004.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

November 5, 2004



Vinh T. Luong  
Primary Examiner